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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,315	01/10/2002	Satoshi Aramaki	Q66240	2230

7590

03/18/2004

Sughrue Mion Zinn Macpeak & Seas  
2100 Pennsylvania Avenue N W  
Washington, DC 20037

EXAMINER
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FIDEI, DAVID

ART UNIT	PAPER NUMBER
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3728

12

DATE MAILED: 03/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/030,315

Applicant(s)

ARAMAKI, SATOSHI

Examiner

David T. Fidei

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4 it is unclear what the alternative language defines. Nothing further appears to be added by this language.

In claim 6, it is unclear what is considered to comprise an "undercut shape".

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 5, 6 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese document 62-260664. In figures 1-4b a case is disclosed comprising a containing part 11 adapted to contain a plurality of objects that are overlapped and disposed in a raised position in the containing part. A lid part 12 is disposed on an opening of said containing part and connected to the container part 11 by a hinge 13 to be operable to be freely opened and closed, see figure 1. At least one pair of locking portion 18, 28 are operable to be engaged with each and located in what is considered areas near corners of both side faces of the opening, note figure 4a and 4b. These locking portions 18, 20 extend along side faces of the container in a direction of a vertical axis of the case corresponding to a direction of opening of the case.

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As to claims 5 and 11, the locking portions 18, 28 are also considered disposed at substantially middle areas.

As to claim 6, it appears the locking portions comprise an undercut shape 25, 30 that engage each other.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-4, 6 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi (Patent no. 5,996,787) in view of Japanese document 62-260664 and Japanese document 63-137748. Kobayashi discloses a case comprising a containing part 2 adapted to contain a plurality of objects that are overlapped and disposed in a raised position in the containing part. A lid part 7 is disposed on an opening of said containing part and connected to the container part 2 by a hinge to be operable to be freely opened and closed, see figures 1 and 8. The difference between the claimed subject matter and Kobayashi resides in at least one pair of locking portions operable to be engaged with each and located and disposed in areas near corners of both side faces of the opening, the locking portions extending along side faces of the container in a direction of a vertical axis of the case corresponding to a direction of opening of the case (claim 1).

Japanese document 62-260664 provides the motivation missing from Kobayashi where it is shown to be desirable to provide a locking engagement on hinged cases of the type disclosed by Kobayashi, see the previous rejection. It would have been obvious to one of ordinary skill in the art to modify the case of Kobayashi by providing at least on pair of locking portions as taught by Japanese document 62-260664, in order to maintain the lid in a closed position.

Japanese document 63-137748 teaches a locking arrangement for a hinged case where the lid and containing part have a stepped portion 8, 9, 8', 9' with a pair of engaging members 10, 11, 10', 11'. In view of the motivation provided by Japanese document 62-260664, it would have been desirable to provide locking portions on the case of Kobayashi. To provide locking portions of a construction comprising a first depression (11, 11') that is engaged by a projection (10, 10') is fairly taught by the prior art as shown by Japanese document 63-137748 and would have been obvious for the reason of confining the locking engagement within the case stepped portion (claim 9) so as not to interfere with the object retaining structure of Kobayashi. Hence, the subject matter of claims 1 and 9 are addressed herein.

As to claims 2, 10 and 11 the corner area of Japanese document 63-137748 appears to fall within one-fourth the width of the case and Japanese document 62-260664 suggests locking portions that are more centrally located. To provide the locking portions in either of these locations would appear to be an obvious matter of design choice, for the reason that the particular location of the locking portions does not appear to solve any particular problem and the prior art is suggestive of the variety of locations claimed.

As to claims 3 and 4, the shape of the depressions 11, 11' and the shape of the projections 10, 10' in Japanese document 63-137748 are adapted to be engaged with each other. As to claim 8, since members 10, 10', 11, 11' are rounded, the ridge lines are manifestly rounded.

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8. Claims 5, 7, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi (Patent no. 5,996,787) in view of Japanese document 62-260664 and Japanese document 63-137748 as applied to claims 1-4, 6 and 8-11 above, and further in view of Japanese document 57-174320. The difference between these claims and the prior art resides in multiple locking portions provided on the case, i.e., disposed at areas near the corners at a front side and at substantially middle areas (claim 5), disposed at areas near corners at a front side and disposed at areas near corners at a back side (claim 7), at least two pairs of locking portions provided on one side surface (claim 12) and corner areas including a range of 0<sub>mm</sub> to 7<sub>mm</sub> (claim 13).

Japanese document 57-174320 discloses a hinged container where multiple locking portion 5, 5' are provided in side faces of a hinged container, note figure 2. Hence to provide at two pairs of locking portions on one side face is fairly taught by the prior art and would have been obvious to one of ordinary skill in the art in order to secure the lid at multiple locations.

As to claims 5 and 7, it is believed the locking portions 5, 5' of Japanese document 57-174320 figure 2 can be to disposed at areas near the corners at a front side and at substantially middle areas along with disposed at areas near corners at a front side and disposed at areas near corners at a back side, given the imprecise nature of this language.

As to claim 13, it is not apparent the distance of the corner area including the locking portions has a range of 0<sub>mm</sub> to 7<sub>mm</sub>, however such a modification would have involved a mere change in the size or location of a component. A change in size or location of component generally recognized as being within the level of ordinary skill in the art. Also, it has been held that where the only difference between the prior art device and the claimed device was a recitation of relative dimensions, the claimed device was not patentably distinct from the prior art device, *Gardner v. TED Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. Denied, 469 U.S. 830, 2325 USPQ 232 (1984).

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**REPLY BY APPLICANT OR PATENT OWNER TO THIS OFFICE ACTION**

9. “In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to every ground of objection and rejection in this Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. The applicant’s or patent owner’s reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. The reply must be reduced to writing (emphasis added)”, see 37 CFR 1.111 (b) & (c), M.P.E.P. 714.02.

Pointing out specific distinctions means clearly indicating in the written response what features/elements or distinctions have been added to the claim/claims, where support is found in the specification for such recitations and how these features are not shown, taught, obvious or inherent in the prior art.

If no amendments are made to claims as applicant or patent owner believes the claims are patentable without further modification, the reply must distinctly and specifically point out the supposed errors in the examiner’s action and must respond to every ground of objection and rejection in the prior Office Action in the same vain as given above, 37 CFR 1.111 (b) & (c), M.P.E.P. 714.02.

The examiner also points out, due to the change in practice as affecting final rejections, older decisions on questions of prematurity of final rejection or admission of subsequent amendments do not necessarily reflect present practice. “Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)” (emphasis mine), see MPEP 706.07(a).

**Conclusion**

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email [CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

Any inquiry concerning the MERITS of this examination from the examiner should be directed to David T. Fidei whose telephone number is (703) 308-1220. The examiner can normally be reached on Monday, Thursday and Friday 8:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached at (703) 308-2672.

Effective Monday morning, August 4, 2003, all official faxes for the TCs will be received in one central location in the Office. In cooperation with the Customer Service Goal Team, a new central official fax number (703-872-9306) has been established for use by the TCs. An OG notice will be issued and the Website updated to alert PTO customers of the new fax number. Official standalone (non-RightFax) fax machines will be removed from the TC fax centers, their phone numbers auto-forwarded to a single RightFax account, and faxes printed in the centralized fax center.



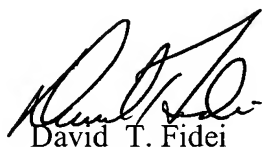
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Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8497
Assignment Branch	(703) 308-9723
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408

If the information desired is not provided above, or has been changed, please do not call the examiner (this is the latest information provided to him) but the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	<a href="http://www.uspto.gov/">http://www.uspto.gov/</a>



David T. Fidei  
Primary Examiner  
Art Unit 3728

dtf

March 15, 2004